

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN DALE MAHLUM**, on February 15, 2001 at 3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Dale Mahlum, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Chris Christiaens (D)  
Sen. John Cobb (R)  
Sen. Jim Elliott (D)  
Sen. Bill Glaser (R)  
Sen. Duane Grimes (R)  
Sen. Don Hargrove (R)  
Sen. Ken Miller (R)  
Sen. Emily Stonington (D)  
Sen. Ken Toole (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Mary Gay Wells, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 333, 2/2/2001  
SB 359, 2/2/2001  
SB 368, 2/2/2001

Executive Action: SB 333 DP; SB 138 DPAA;  
SB 215 DPAA; SB 216 DPAA;  
SB 226 DPAA; SB 278 DPAA;  
SB 287 DPAA; SB 368 DPAA  
SB 206 Discussed

**{Tape : 1; Side : A; Approx. Time Counter : 0}**

**HEARING ON SB 333**

**Sponsor:** SEN. TOM BECK, SD 28, DEER LODGE

**Proponents:** Jane Jelinski, MT Assoc. of Counties  
Don Allen, Representing Powell County Commissioners

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. TOM BECK, SD 28, DEER LODGE.** Last session he had asked that the state prison ranch make a payment, in lieu of taxes, to Powell County. The ranch has a large amount of money in their fund of about \$1.8 million. They compete with the ranchers of the valley but they don't pay taxes. This is just the ranch. There was a sunset on the bill and the reason for that was it was felt a sunset would be good so that in the interim the situation could be studied in the Taxation & Revenue Interim Committee. He did not believe that the committee came up with a figure. It wasn't that the tax was not appropriate, but the question was how much money should be assessed the ranch. There is a ranch next to the prison ranch that has approximately 85,000-90,000 acres. They pay approximately \$96,000 a year. The prison ranch is about half that size. That is how the figure of \$46,000 was arrived at. To the citizens of Powell County, it was a fair amount. This bill would remove the sunset. He offered a letter of support from Powell County High School **EXHIBIT (los38a01)**.

**Proponents' Testimony:**

**Jane Jelinski, MT Assoc. of Counties.** The Association stands in support of the bill. It is a fair and reasonable bill.

**Don Allen, Representing Powell County Commissioners.** The issue has been outlined very well. The commissioners are anxious to have the sunset removed. The bill is good for Powell County and the State of Montana.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**SEN. BECK** closed. He recommended that the sunset be removed.

**EXECUTIVE ACTION ON SB 333**

**Motion/Vote:** SEN. CHRISTIAENS moved that SB 333 DO PASS. Motion carried 10-1 with Miller voting no.

**HEARING ON SB 368**

**Sponsor:** SEN. DEBBIE SHEA, SD 18, BUTTE

**Proponents:** George Bennett, Attorney for MT Bankers Assoc.  
Bill Gowen, MT Land Title Assoc.  
Bob Pifer, Credit Union

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. DEBBIE SHEA, SD 18, BUTTE. The purpose of the bill is to provide for the recording of master form mortgages and master form deeds of trust by county clerks and allow an instrument that is to be recorded to incorporate information by reference from other recorded instruments. She showed a 16-page mortgage document and a one-page mortgage document. One costs the consumer \$6 per page totaling \$96 and the other costs \$6.00. That is the bottom line. The bill will allow consumers to file a one page document with everything incorporated into one document. The big form is redundant. It will save paper and money.

**Proponents' Testimony:**

George Bennett, Attorney for MT Bankers Assoc. There is an amendment to the bill **EXHIBIT(10s38a02)**. The bill would have provided for master documents which is a system used in Utah, Arizona, Nevada and some other western states. It just won't work in Montana. The amendment will strip out all references to the master documents. The effect of the bill, as amended, will be when a document is offered to the clerk and recorder for recording, one can incorporate into that document any language that is in a document that is already of record in that county and the county clerk's office. The Montana title standards that lawyers used to use specifically authorized this practice. Way back when, abstractors which are a document of a place, lawyers would read the abstract, give an opinion and if there was a mistake the lawyer would be sued. Now title insurance is used. If there is a mistake, the title company will indemnify you. It makes sense to be able to reference language in other deeds or

other documents that are a matter of record. This should not affect the filing fees of the clerks and recorders. If there are fewer pages, there should be less work. The bill will make for efficiencies in all ways.

**Bill Gowen, MT Land Title Assoc.** They are in support of the bill. They have been doing this work since the 1960's. It is a way to save a little money on recording fees.

**Bob Pyfer, Executive Vice President, MT Credit Unions League.** They are in support of the bill. The secondary market's standard form may be going from six pages to 17 pages which would really increase that cost. The bill will help offset some of that cost.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. JOHN BOHLINGER** asked why it had taken so long to have a bill like SB 368.

**Closing by Sponsor:**

**SEN. SHEA** closed. This will help save time and money for everyone.

#### **EXECUTIVE ACTION ON SB 368**

**Motion/Vote:** **SEN. HARGROVE** moved that **SB 368 BE AMENDED** with **EXHIBIT 2**. Motion carried unanimously.

**Motion/Vote:** **SEN. HARGROVE** moved that **SB 368 DO PASS AS AMENDED**. Motion carried unanimously.

#### **EXECUTIVE ACTION ON SB 226**

This bill was discussed and an amendment **EXHIBIT**(los38a03) was offered on 2-13-01. A roll call vote was taken. The outcome depended on **SEN. DUANE GRIMES**. He had 24 hours to cast his vote.

**SEN. GRIMES** voted YES. Therefore, the amendment passed by a vote of 6-5.

**Motion/Vote:** SEN. MILLER moved that SB 226 DO PASS AS AMENDED.  
Motion carried 10-1 with Stonington voting no.

**EXECUTIVE ACTION ON SB 215**

**Motion:** SEN. GRIMES moved that SB 215 BE AMENDED  
**EXHIBIT**(los38a04) .

**Discussion:**

**Tom Daubert, MT Solid Waste Contractors** explained the amendments. The first amendment is a title change in order to make the second amendment. The second amendment was proposed by Sherrel Rhys from Jefferson County. The third amendment was proposed by Ms. Rhys. The fourth and fifth amendments were proposed at the hearing to insure that the language is consistent with past attorney general opinions. The rest of the amendments were recommended by the legislative auditor, Scott Seacat. The seventh amendment ties the whole concept of direct and indirect costs to the federal budgeting document that local governments are already accustomed to using.

**Vote:** Motion that SB 215 AMENDMENT BE ADOPTED carried unanimously.

**Motion/Vote:** SEN. COBB moved that SB 215 DO PASS AS AMENDED.  
Motion carried 6-5 with Christiaens, Elliott, Hargrove, Stonington, and Toole voting no. A roll call vote was taken.

**HEARING ON SB 359**

**Sponsor:** SEN. MIKE HALLIGAN, SD 34, MISSOULA

**Proponents:** Ken Morrison, Helena City Commissioner  
Hal Fossum, City of Helena  
Alec Hansen, MT League of Cities/Towns

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. MIKE HALLIGAN, SD 34, MISSOULA.** This bill presents an opportunity to allow a city or town to create an annexation district outside of the city or town. That would only be upon the agreement between the city or town and the owner of the property. On line 19, the levy or fee must be the full amount that a resident of the city or town would pay in the fifth year

of the district and the property in the district is annexed after the fifth year. That would be phasing in the services and fees before the actual annexation would take place. It is only voluntary.

**Proponents' Testimony:**

**Ken Morrison, Helena City Commissioner.** This idea stemmed from an idea that he had that would give the city some areas in which to let the city grow. There is an owner adjacent to the city that is interested in the annexation of his property into the city. It is difficult to do that quickly and to have revenue to pay the city taxes. This would encourage him and other land owners to develop their land as city property. It is voluntary and is a positive step to work with the landowners.

**Hal Fossum, City of Helena.** The bill is simple. It adds a tool for the cities to work with property owners in a comprehensive manner. It gives them some means to phase in infrastructure and help finance that infrastructure. It is strictly voluntary.

**Alex Hansen, MT League of Cities/Towns.** He stands in support of the bill. The annexation would only be with an agreement between an owner and a city or town. This is part of a better way. They are looking at a study of annexation over the next two years. The services are provided at a reduced level and the fees are adjusted accordingly for at least five years. This will encourage new growth and solid planning.

**Opponents' Testimony: None**

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**Questions from Committee Members and Responses:**

**SEN. JOHN COBB** stated on line 17, a city or town may impose a tax levy or a fee on the owner of the property within the annexation district based upon the difference between the municipal levy or fee and in the next sentence it states the levy or fee must be the full amount that a resident of the city or town would pay in the fifth year. Should it state the property of the district is annexed in the fifth year and then that is when they would pay the full amount. **SEN. HALLIGAN** answered that by the fifth year they would pay the full rate. It would be transitioned in by the fifth year.

**SEN. JOHN BOHLINGER** asked if it was just a phased-in fee at 20% a year until the fifth year came. **SEN. HALLIGAN** felt that was the case.

**SEN. BOHLINGER** liked the bill. What services had been contemplated as far as services were concerned. **SEN. HALLIGAN** answered that services would be the more generic services like fire protection because the land would probably stay open until developers could be found.

**SEN. BOHLINGER** further questioned that by the fifth year there should be definite services provided. **SEN. HALLIGAN** answered that should be the case and maybe five years is not enough time.

**SEN. DUANE GRIMES** wondered if the property is in Lewis & Clark County. **Ken Morrison** responded that part of it is.

**SEN. GRIMES** asked if currently there are cities that are in two different counties. **Mr. Morrison** did not think so.

**SEN. GRIMES** wondered how the bill would affect cities that are on county borders. **Mr. Morrison** answered that the property is out to the east of the freeway on the other side of the city boundary. It is very large over 700 acres. Part of the land may lie in Jefferson County. The fact that a city is in two counties, it wouldn't be a practical problem but perhaps there are some laws that would need to be looked at.

**SEN. GRIMES** was looking at the powers given to cities and counties and he could see some complicated issues. This should be researched.

**SEN. GRIMES** asked what would happen if a golf course would go under in a bad debt situation on the part of someone who suddenly wanted to get his property annexed into the city. Would the taxpayers be put into a mess if the annexation carried along some encumbrances. **SEN. HALLIGAN** did not believe that would happen. Taxes owed on a piece of property would remain the same and there would be a tax lien on that property. The city would not be taking ownership of the property only annexing it.

**SEN. GRIMES** inquired about the issue of pressure. In some counties with cities right on the borders, there are different laws and zoning ordinances, etc. It might not be completely voluntary. **SEN. HALLIGAN** felt that this bill would diffuse some of the problems that have been experienced in Missoula.

**SEN. DON HARGROVE** wondered if planners had been spoken to. **SEN. HALLIGAN** replied that any annexation would have to fit in with the city and county planners. **Mr. Morrison** replied they had annexed small pieces of property into the city. When that has been done the city goes through a process of identifying appropriate zones and that is usually done in conjunction with

the planners. It usually fits in with the comprehensive city plan.

**SEN. HARGROVE** felt this bill would exempt that process. **Mr. Morrison** did not see it that way at all. It works in coordination which allows the land owner and the city to work together.

**SEN. BOHLINGER** felt that five years might be too ambitious. Would an extension to a ten year period be amenable. **SEN. HALLIGAN** replied that might be a very good idea. **Mr. Hansen** said that he thought the ten year extension would be good.

**SEN. GRIMES** asked what would happen if the landowner backed out. **Mr. Morrison** felt that could be worked out between the two parties when an agreement was reached.

**SEN. GRIMES** said that some owners might be more likely to do this if they could try it and still have the option to back out.

**SEN. BOHLINGER** said if an agreement was struck, this would be a way of adding value to the landowner's property. **SEN. HALLIGAN** responded that if a landowner wanted to do the ten year transition with phased-in services added, that would add to the value of the property.

**CHAIRMAN DALE MAHLUM** stated that if a landowner wanted to be annexed by the city but there are property owners in between the owner and the city, would those people be forced to be annexed in also. **Mr. Morrison** replied that they had just experienced that situation. Ultimately the city accepted their request for annexation.

**CHAIRMAN MAHLUM** then stated that those people would be forced into annexation.

**Closing by Sponsor:**

**SEN. HALLIGAN** closed. The bill is a good one and gives the cities a comprehensive plan to work with landowners. A good contract would give those landowners the opportunity to back out if they so desired.

**EXECUTIVE ACTION ON SB 216**



**Motion/Vote:** SEN. GRIMES moved that SB 216 BE AMENDED  
**EXHIBIT**(los38a05). Motion carried 10-1 with Toole voting no. A  
roll call vote was taken.

**Motion:** SEN. COBB moved that SB 216 DO PASS AS AMENDED.

**Discussion:**

SEN. EMILY STONINGTON objected strenuously to SB 215, SB 216 and  
SB 278. The cities need to stay in control of the solid waste  
programs for the health and welfare of the citizens.

SEN. DON HARGROVE felt that he could not vote for the bill. He  
wants to keep the cities in control.

SEN. JIM ELLIOTT felt that there was not a problem and therefore  
the bill was not necessary.

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SEN. DUANE GRIMES did not think it was fair to say that private  
companies would not have the same concerns as the cities and  
counties as far as extending the life of the landfills and  
keeping the cities' alleys clean. They also are interested in  
recycling.

SEN. BOHLINGER offered that his town, Billings, does FCA and  
keeps track of all the costs. They provide an incredible service  
for \$79 a year. He couldn't imagine the private sector having  
the ability to do any better. There was nothing to fear.

SEN. EMILY STONINGTON felt that private companies would not stop  
and pick up orphan trash. Private companies would cherry pick  
and that would not be fair to the cities.

**Vote:** Motion carried 7-4 with Elliott, Hargrove, Stonington, and  
Toole voting no. A roll call vote was taken.

**EXECUTIVE ACTION ON SB 278**

**Motion:** SEN. BOHLINGER moved that SB 278 BE AMENDED  
**EXHIBIT**(los38a06).

**Discussion:**

**Leanne Kurtz** explained that the amendment would not allow cities or towns to charge the citizens for the public service even if they chose to have the private service.

**SEN. JIM ELLIOTT** said that he was assessed a \$15 fee for the television district. There may be a few people who don't have satellite dishes or cable. Everyone pays that fee so that others who cannot afford satellite dishes can have television. This amendment would curtail the revenue coming into the city that is providing the service. One is fairness to the one who is charged the fee and the other is to give the entity who provides the service less money. Primarily, the purpose of this amendment is to cut off the money supply to the city.

**Vote:** Motion that **SB 278 AMENDMENT BE ADOPTED** carried 8-3 with **Elliott, Stonington, and Toole** voting no. A roll call vote was taken.

**Motion:** **SEN. COBB** moved that **SB 278 DO PASS AS AMENDED**.

**Discussion:**

**SEN. BOHLINGER** asked if this bill is similar to SB 215 and SB 216. **SEN. STONINGTON** said the difference is that the bill says that cities cannot have exclusive authority to provide services and that the cities cannot charge the citizens if those people should chose a private hauler.

**Vote:** Motion that **SB 278 DO PASS AS AMENDED** carried 7-4 with **Christiaens, Elliott, Stonington, and Toole** voting no.

**EXECUTIVE ACTION ON SB 287**

**Motion:** **SEN. STONINGTON** moved that **SB 287 BE AMENDED** **EXHIBIT**(los38a07) .

**Discussion:**

**SEN. EMILY STONINGTON** reminded the committee that the bill would restrict the use of the family land transfer to stop the abuse. The amendments define immediate family to include children by marriage. Another amendment would restrict the remaining acreage to 20 acres. The transferred land must be held for five years.

**SEN. DUANE GRIMES** said that he did not like the restriction of 20 acres remaining. The Farm Bureau was not concerned with the bill

because it did not apply to them. A family transfer was created for estate planning purposes. This would take that away from people. This takes away some of the property rights of people to give their land to their children.

**SEN. HARGROVE** said that the original intent was for farmers and ranchers. Things have evolved but the intention was for families to stay on the ranches or farms and continue to work there. He supports 20 acres because western Montana is made up of more and more 20-acre knapweed farms.

**SEN. GRIMES** asked if land is in a zoning district, which would prevail. The zoning district or this bill. **SEN. STONINGTON** said that the zoning district would prevail. **SEN. HARGROVE** said if the land is zoned it has teeth in it, if it is not zoned it doesn't.

**SEN. KEN TOOLE** spoke of his experience as a young man and the land that was in his family. The meeting he attended was an explanation of how to use ways to get around transfers and dividing the land.

**SEN. STONINGTON** said if a person has to go through a subdivision review it is to make sure that tract of land has the proper easements, sure that the fire truck can get up the road, sure of police protection, etc.

**SEN. KEN MILLER** questioned the 20 acres. There are a lot of 20 acre places. He felt that 10 acres would be a better number.

**SEN. HARGROVE** said that 20 acres with no review is what has brought on the onslaught of abuse. To multiply that even more would not be good. Those who own those 20 acres probably weren't even born in Montana.

**SEN. CHRIS CHRISTIAENS** said the prime example is out by Craig. That was a large ranch and split into small acreage parcels. Some are probably five acres. It is a big mess. It has caused Lewis & Clark County all sorts of problems.

**SEN. JOHN COBB** asked for some history. **SEN. HARGROVE** explained that at one time with a certificate of survey one could divide anything they owned into 20 acres. In 1993, the legislature changed that to 160 acres. There were five or six months before the law went into effect and everyone went out and created 20 acres pieces. The 20 acres did not require a review.

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**SEN. GRIMES** was uneasy with anything that is anti-growth. Planned growth is fine, but it seems to be more anti-growth. Does this bill fit the whole of Montana?

**SEN. STONINGTON** felt that the bill would fit all of Montana.

**CHAIRMAN MAHLUM** questioned the advisability of making people hold onto the land for five years before selling.

**SEN. HARGROVE** said this bill is about whether a transfer can be done without any consideration of public health and welfare. That is a good argument. You can transfer and sell, but there are restrictions and you would then have to meet certain requirements.

**SEN. STONINGTON** wanted to make an amendment to her amendment. She wanted to change the effective date to passage upon approval on page 2, line 10.

**SEN. COBB** suggested that a technical amendment on number five would be to make "the divided land" read "the division of land."

**Vote:** Motion that **SB 287 AMENDMENT BE ADOPTED** carried unanimously.

**Motion/Vote:** **SEN. STONINGTON** moved that **SB 287 DO PASS AS AMENDED**. Motion carried 6-5 with Cobb, Glaser, Grimes, Mahlum, and Miller voting no. A roll call vote was taken.

#### **EXECUTIVE ACTION ON SB 138**

**Motion:** **SEN. GLASER** moved that **SB 138 BE AMENDED EXHIBIT**(los38a08), SB013801.alk.

#### **Discussion:**

**SEN. BILL GLASER** explained that he had the amendments put together with the consent of **SEN. LINDA NELSON**.

**SEN. JOHN BOHLINER** had received a letter from his county commissioners (Billings) telling him that the bill would be non-beneficial for urban counties. **SEN. GLASER** had talked to those commissioners and the amendments make the bill palatable but they are still not in love with the bill. Some are in favor

but not all. The bill is somewhat controlling though not perfect.

**SEN. BOHLINGER** asked who was in favor of the bill? **SEN. GLASER** replied Commissioner Kennedy was okay with the bill, Commissioner Reno would still like to do something different with the bill. Commissioner Zeigler is nowhere to be found.

**CHAIRMAN MAHLUM** inquired about the fiscal note. **SEN. LINDA NELSON**, sponsor of the bill, had requested a fiscal note. The money is covered under Senate Bill 124. Rather than risk losing the bill, Sections 34 and 43 which discuss the special districts could be taken out of the bill. That would take away the fiscal note. She offered that amendment **EXHIBIT(1038a09)**.

**Harold Blattie, Stillwater County Commissioner** was asked to explain the above amendment. Striking these two amendments would do one thing. It removes the accountability from the special districts for public money. The fiscal note on these two sections would provide oversight by the Department of Commerce for the public money that is held by those entities. Within his own county, there is great divergence as to whether public money needs to be held by the county treasurer or be held somewhere else. If the county treasurer does not hold the money, that money loses its identity. These special districts are not accountable to anyone. This is wrong. He illustrated some instances where the money was unidentifiable, the books are incorrect, etc. He felt very strongly about this issue and vowed to return.

**SEN. CHRIS CHRISTIAENS** asked if these special districts were not audited. **Mr. Blattie** responded that if a public entity has less than \$200,000 of income per year, it is not required to have an audit done. They submit an annual financial report to the Department of Commerce. They only serve as a custodian for those documents. They don't audit.

**Vote:** Motion that **SB 138 AMENDMENT SB013801.ALK BE ADOPTED** carried unanimously.

**Motion:** **SEN. CHRISTIAENS** moved that **SB 138 BE AMENDED (EXH. 9)**.

**Discussion:**

**SEN. LINDA NELSON** made comments that she would prefer to have the bill go forward and was willing to have this amendment passed even though it was not what **Harold Blattie** wanted to see.

**SEN. GLASER** commented that the amendment should be passed because if the fiscal note remained a high cost to the state, SB 138 would go to finance and would probably die there.

**Vote:** Motion that **SB 138 AMENDMENT #2 BE ADOPTED** carried unanimously.

**Motion/Vote:** **SEN. BOHLINGER** moved that **SB 138 DO PASS AS AMENDED**. Motion carried unanimously.

**EXECUTIVE ACTION ON SB 206**

**Motion:** **SEN. GLASER** moved that **SB 206 BE AMENDED EXHIBIT (los38a10)**.

**Discussion:**

**SEN. BILL GLASER** explained that the amendments addressed the concerns the committee had.

**CHAIRMAN DALE MAHLUM** asked for a vote of the committee to take the bill off the table.

**SEN. JIM ELLIOTT** said he thought it was good where it was.

**Vote:** Motion **TO TAKE SB 206 OFF THE TABLE** failed 5-6 with Bohlinger, Christiaens, Elliott, Hargrove, Stonington, and Toole voting no. A roll call vote was taken.



**ADJOURNMENT**

Adjournment: 5:10 P.M.

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SEN. DALE MAHLUM, Chairman

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MARY GAY WELLS, Secretary

DM/MW

**EXHIBIT (los38aad)**